



Sen. Heather Steans

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LRB096 07454 NHT 26925 a

1 AMENDMENT TO HOUSE BILL 628

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 628 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The School Code is amended by changing Section  
5 14-8.02 as follows:

6 (105 ILCS 5/14-8.02) (from Ch. 122, par. 14-8.02)

7 Sec. 14-8.02. Identification, Evaluation and Placement of  
8 Children.

9 (a) The State Board of Education shall make rules under  
10 which local school boards shall determine the eligibility of  
11 children to receive special education. Such rules shall ensure  
12 that a free appropriate public education be available to all  
13 children with disabilities as defined in Section 14-1.02. The  
14 State Board of Education shall require local school districts  
15 to administer non-discriminatory procedures or tests to  
16 limited English proficiency students coming from homes in which

1 a language other than English is used to determine their  
2 eligibility to receive special education. The placement of low  
3 English proficiency students in special education programs and  
4 facilities shall be made in accordance with the test results  
5 reflecting the student's linguistic, cultural and special  
6 education needs. For purposes of determining the eligibility of  
7 children the State Board of Education shall include in the  
8 rules definitions of "case study", "staff conference",  
9 "individualized educational program", and "qualified  
10 specialist" appropriate to each category of children with  
11 disabilities as defined in this Article. For purposes of  
12 determining the eligibility of children from homes in which a  
13 language other than English is used, the State Board of  
14 Education shall include in the rules definitions for "qualified  
15 bilingual specialists" and "linguistically and culturally  
16 appropriate individualized educational programs". For purposes  
17 of this Section, as well as Sections 14-8.02a, 14-8.02b, and  
18 14-8.02c of this Code, "parent" means a parent as defined in  
19 the federal Individuals with Disabilities Education Act (20  
20 U.S.C. 1401(23)).

21 (b) No child shall be eligible for special education  
22 facilities except with a carefully completed case study fully  
23 reviewed by professional personnel in a multidisciplinary  
24 staff conference and only upon the recommendation of qualified  
25 specialists or a qualified bilingual specialist, if available.  
26 At the conclusion of the multidisciplinary staff conference,

1 the parent of the child shall be given a copy of the  
2 multidisciplinary conference summary report and  
3 recommendations, which includes options considered, and be  
4 informed of their right to obtain an independent educational  
5 evaluation if they disagree with the evaluation findings  
6 conducted or obtained by the school district. If the school  
7 district's evaluation is shown to be inappropriate, the school  
8 district shall reimburse the parent for the cost of the  
9 independent evaluation. The State Board of Education shall,  
10 with advice from the State Advisory Council on Education of  
11 Children with Disabilities on the inclusion of specific  
12 independent educational evaluators, prepare a list of  
13 suggested independent educational evaluators. The State Board  
14 of Education shall include on the list clinical psychologists  
15 licensed pursuant to the Clinical Psychologist Licensing Act.  
16 Such psychologists shall not be paid fees in excess of the  
17 amount that would be received by a school psychologist for  
18 performing the same services. The State Board of Education  
19 shall supply school districts with such list and make the list  
20 available to parents at their request. School districts shall  
21 make the list available to parents at the time they are  
22 informed of their right to obtain an independent educational  
23 evaluation. However, the school district may initiate an  
24 impartial due process hearing under this Section within 5 days  
25 of any written parent request for an independent educational  
26 evaluation to show that its evaluation is appropriate. If the

1 final decision is that the evaluation is appropriate, the  
2 parent still has a right to an independent educational  
3 evaluation, but not at public expense. An independent  
4 educational evaluation at public expense must be completed  
5 within 30 days of a parent written request unless the school  
6 district initiates an impartial due process hearing or the  
7 parent or school district offers reasonable grounds to show  
8 that such 30 day time period should be extended. If the due  
9 process hearing decision indicates that the parent is entitled  
10 to an independent educational evaluation, it must be completed  
11 within 30 days of the decision unless the parent or the school  
12 district offers reasonable grounds to show that such 30 day  
13 period should be extended. If a parent disagrees with the  
14 summary report or recommendations of the multidisciplinary  
15 conference or the findings of any educational evaluation which  
16 results therefrom, the school district shall not proceed with a  
17 placement based upon such evaluation and the child shall remain  
18 in his or her regular classroom setting. No child shall be  
19 eligible for admission to a special class for the educable  
20 mentally disabled or for the trainable mentally disabled except  
21 with a psychological evaluation and recommendation by a school  
22 psychologist. Consent shall be obtained from the parent of a  
23 child before any evaluation is conducted. If consent is not  
24 given by the parent or if the parent disagrees with the  
25 findings of the evaluation, then the school district may  
26 initiate an impartial due process hearing under this Section.

1 The school district may evaluate the child if that is the  
2 decision resulting from the impartial due process hearing and  
3 the decision is not appealed or if the decision is affirmed on  
4 appeal. The determination of eligibility shall be made and the  
5 IEP meeting shall be completed within 60 school days from the  
6 date of written parental consent. In those instances when  
7 written parental consent is obtained with fewer than 60 pupil  
8 attendance days left in the school year, the eligibility  
9 determination shall be made and the IEP meeting shall be  
10 completed prior to the first day of the following school year.  
11 After a child has been determined to be eligible for a special  
12 education class, such child must be placed in the appropriate  
13 program pursuant to the individualized educational program by  
14 or no later than the beginning of the next school semester. The  
15 appropriate program pursuant to the individualized educational  
16 program of students whose native tongue is a language other  
17 than English shall reflect the special education, cultural and  
18 linguistic needs. No later than September 1, 1993, the State  
19 Board of Education shall establish standards for the  
20 development, implementation and monitoring of appropriate  
21 bilingual special individualized educational programs. The  
22 State Board of Education shall further incorporate appropriate  
23 monitoring procedures to verify implementation of these  
24 standards. The district shall indicate to the parent and the  
25 State Board of Education the nature of the services the child  
26 will receive for the regular school term while waiting

1 placement in the appropriate special education class.

2 If the child is deaf, hard of hearing, blind, or visually  
3 impaired and he or she might be eligible to receive services  
4 from the Illinois School for the Deaf or the Illinois School  
5 for the Visually Impaired, the school district shall notify the  
6 parents, in writing, of the existence of these schools and the  
7 services they provide and shall make a reasonable effort to  
8 inform the parents of the existence of other, local schools  
9 that provide similar services and the services that these other  
10 schools provide. This notification shall include without  
11 limitation information on school services, school admissions  
12 criteria, and school contact information.

13 In the development of the individualized education program  
14 for a student who has a disability on the autism spectrum  
15 (which includes autistic disorder, Asperger's disorder,  
16 pervasive developmental disorder not otherwise specified,  
17 childhood disintegrative disorder, and Rett Syndrome, as  
18 defined in the Diagnostic and Statistical Manual of Mental  
19 Disorders, fourth edition (DSM-IV, 2000)), the IEP team shall  
20 consider all of the following factors:

21 (1) The verbal and nonverbal communication needs of the  
22 child.

23 (2) The need to develop social interaction skills and  
24 proficiencies.

25 (3) The needs resulting from the child's unusual  
26 responses to sensory experiences.

1           (4) The needs resulting from resistance to  
2 environmental change or change in daily routines.

3           (5) The needs resulting from engagement in repetitive  
4 activities and stereotyped movements.

5           (6) The need for any positive behavioral  
6 interventions, strategies, and supports to address any  
7 behavioral difficulties resulting from autism spectrum  
8 disorder.

9           (7) Other needs resulting from the child's disability  
10 that impact progress in the general curriculum, including  
11 social and emotional development.

12 Public Act 95-257 does not create any new entitlement to a  
13 service, program, or benefit, but must not affect any  
14 entitlement to a service, program, or benefit created by any  
15 other law.

16           If the student may be eligible to participate in the  
17 Home-Based Support Services Program for Mentally Disabled  
18 Adults authorized under the Developmental Disability and  
19 Mental Disability Services Act upon becoming an adult, the  
20 student's individualized education program shall include plans  
21 for (i) determining the student's eligibility for those  
22 home-based services, (ii) enrolling the student in the program  
23 of home-based services, and (iii) developing a plan for the  
24 student's most effective use of the home-based services after  
25 the student becomes an adult and no longer receives special  
26 educational services under this Article. The plans developed

1 under this paragraph shall include specific actions to be taken  
2 by specified individuals, agencies, or officials.

3 (c) In the development of the individualized education  
4 program for a student who is functionally blind, it shall be  
5 presumed that proficiency in Braille reading and writing is  
6 essential for the student's satisfactory educational progress.  
7 For purposes of this subsection, the State Board of Education  
8 shall determine the criteria for a student to be classified as  
9 functionally blind. Students who are not currently identified  
10 as functionally blind who are also entitled to Braille  
11 instruction include: (i) those whose vision loss is so severe  
12 that they are unable to read and write at a level comparable to  
13 their peers solely through the use of vision, and (ii) those  
14 who show evidence of progressive vision loss that may result in  
15 functional blindness. Each student who is functionally blind  
16 shall be entitled to Braille reading and writing instruction  
17 that is sufficient to enable the student to communicate with  
18 the same level of proficiency as other students of comparable  
19 ability. Instruction should be provided to the extent that the  
20 student is physically and cognitively able to use Braille.  
21 Braille instruction may be used in combination with other  
22 special education services appropriate to the student's  
23 educational needs. The assessment of each student who is  
24 functionally blind for the purpose of developing the student's  
25 individualized education program shall include documentation  
26 of the student's strengths and weaknesses in Braille skills.

1 Each person assisting in the development of the individualized  
2 education program for a student who is functionally blind shall  
3 receive information describing the benefits of Braille  
4 instruction. The individualized education program for each  
5 student who is functionally blind shall specify the appropriate  
6 learning medium or media based on the assessment report.

7 (d) To the maximum extent appropriate, the placement shall  
8 provide the child with the opportunity to be educated with  
9 children who are not disabled; provided that children with  
10 disabilities who are recommended to be placed into regular  
11 education classrooms are provided with supplementary services  
12 to assist the children with disabilities to benefit from the  
13 regular classroom instruction and are included on the teacher's  
14 regular education class register. Subject to the limitation of  
15 the preceding sentence, placement in special classes, separate  
16 schools or other removal of the disabled child from the regular  
17 educational environment shall occur only when the nature of the  
18 severity of the disability is such that education in the  
19 regular classes with the use of supplementary aids and services  
20 cannot be achieved satisfactorily. The placement of limited  
21 English proficiency students with disabilities shall be in  
22 non-restrictive environments which provide for integration  
23 with non-disabled peers in bilingual classrooms. Annually,  
24 each January, school districts shall report data on students  
25 from non-English speaking backgrounds receiving special  
26 education and related services in public and private facilities

1 as prescribed in Section 2-3.30. If there is a disagreement  
2 between parties involved regarding the special education  
3 placement of any child, either in-state or out-of-state, the  
4 placement is subject to impartial due process procedures  
5 described in Article 10 of the Rules and Regulations to Govern  
6 the Administration and Operation of Special Education.

7 (e) No child who comes from a home in which a language  
8 other than English is the principal language used may be  
9 assigned to any class or program under this Article until he  
10 has been given, in the principal language used by the child and  
11 used in his home, tests reasonably related to his cultural  
12 environment. All testing and evaluation materials and  
13 procedures utilized for evaluation and placement shall not be  
14 linguistically, racially or culturally discriminatory.

15 (f) Nothing in this Article shall be construed to require  
16 any child to undergo any physical examination or medical  
17 treatment whose parents object thereto on the grounds that such  
18 examination or treatment conflicts with his religious beliefs.

19 (g) School boards or their designee shall provide to the  
20 parents of a child prior written notice of any decision (a)  
21 proposing to initiate or change, or (b) refusing to initiate or  
22 change, the identification, evaluation, or educational  
23 placement of the child or the provision of a free appropriate  
24 public education to their child, and the reasons therefor. Such  
25 written notification shall also inform the parent of the  
26 opportunity to present complaints with respect to any matter

1 relating to the educational placement of the student, or the  
2 provision of a free appropriate public education and to have an  
3 impartial due process hearing on the complaint. The notice  
4 shall inform the parents in the parents' native language,  
5 unless it is clearly not feasible to do so, of their rights and  
6 all procedures available pursuant to this Act and the federal  
7 Individuals with Disabilities Education Improvement Act of  
8 2004 (Public Law 108-446); it shall be the responsibility of  
9 the State Superintendent to develop uniform notices setting  
10 forth the procedures available under this Act and the federal  
11 Individuals with Disabilities Education Improvement Act of  
12 2004 (Public Law 108-446) to be used by all school boards. The  
13 notice shall also inform the parents of the availability upon  
14 request of a list of free or low-cost legal and other relevant  
15 services available locally to assist parents in initiating an  
16 impartial due process hearing. Any parent who is deaf, or does  
17 not normally communicate using spoken English, who  
18 participates in a meeting with a representative of a local  
19 educational agency for the purposes of developing an  
20 individualized educational program shall be entitled to the  
21 services of an interpreter.

22 (g-5) For purposes of this subsection (g-5), "qualified  
23 professional" means an individual who holds credentials to  
24 evaluate the child in the domain or domains for which an  
25 evaluation is sought or an intern working under the direct  
26 supervision of a qualified professional, including a master's

1 or doctoral degree candidate.

2 To ensure that a parent can participate fully and  
3 effectively with school personnel in the development of  
4 appropriate educational and related services for his or her  
5 child, the parent, an independent educational evaluator, or a  
6 qualified professional retained by or on behalf of a parent or  
7 child must be afforded reasonable access to educational  
8 facilities, personnel, classrooms, and buildings and to the  
9 child as provided in this subsection (g-5). The requirements of  
10 this subsection (g-5) apply to any public school facility,  
11 building, or program and to any facility, building, or program  
12 supported in whole or in part by public funds. Prior to  
13 visiting a school, school building, or school facility, the  
14 parent, independent educational evaluator, or qualified  
15 professional may be required by the school district to inform  
16 the building principal or supervisor in writing of the proposed  
17 visit, the purpose of the visit, and the approximate duration  
18 of the visit. The visitor and the school district shall arrange  
19 the visit or visits at times that are mutually agreeable.  
20 Visitors shall comply with school safety, security, and  
21 visitation policies at all times. School district visitation  
22 policies must not conflict with this subsection (g-5). Visitors  
23 shall be required to comply with the requirements of applicable  
24 privacy laws, including those laws protecting the  
25 confidentiality of education records such as the federal Family  
26 Educational Rights and Privacy Act and the Illinois School

1 Student Records Act. The visitor shall not disrupt the  
2 educational process.

3 (1) A parent must be afforded reasonable access of  
4 sufficient duration and scope for the purpose of observing  
5 his or her child in the child's current educational  
6 placement, services, or program or for the purpose of  
7 visiting an educational placement or program proposed for  
8 the child.

9 (2) An independent educational evaluator or a  
10 qualified professional retained by or on behalf of a parent  
11 or child must be afforded reasonable access of sufficient  
12 duration and scope for the purpose of conducting an  
13 evaluation of the child, the child's performance, the  
14 child's current educational program, placement, services,  
15 or environment, or any educational program, placement,  
16 services, or environment proposed for the child, including  
17 interviews of educational personnel, child observations,  
18 assessments, tests or assessments of the child's  
19 educational program, services, or placement or of any  
20 proposed educational program, services, or placement. If  
21 one or more interviews of school personnel are part of the  
22 evaluation, the interviews must be conducted at a mutually  
23 agreed upon time, date, and place that do not interfere  
24 with the school employee's school duties. The school  
25 district may limit interviews to personnel having  
26 information relevant to the child's current educational

1       services, program, or placement or to a proposed  
2       educational service, program, or placement.

3       (h) (Blank).

4       (i) (Blank).

5       (j) (Blank).

6       (k) (Blank).

7       (l) (Blank).

8       (m) (Blank).

9       (n) (Blank).

10       (o) (Blank).

11       (Source: P.A. 94-376, eff. 7-29-05; 94-1100, eff. 2-2-07;  
12       95-257, eff. 1-1-08; 95-876, eff. 8-21-08.)

13       Section 99. Effective date. This Act takes effect upon  
14       becoming law.".